

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

RODNEY YOUNG,)	
)	
Plaintiff,)	
)	
v.)	
)	JURY TRIAL DEMANDED
PORTFOLIO RECOVERY ASSOCIATES, INC.,)	
)	
)	
Defendant.)	

COMPLAINT

NOW COMES the Plaintiff, RODNEY YOUNG, by and through his attorneys, LARRY P. SMITH & ASSOCIATES, LTD., and for his complaint against the Defendant, PORTFOLIO RECOVERY ASSOCIATES, INC., Plaintiff states as follows:

I. PRELIMINARY STATEMENT

1. This is an action for actual and statutory damages for violations of the Fair Debt Collection Practices Act (hereinafter "FDCPA"), 15 U.S.C. §1692, et seq.

II. JURISDICTION & VENUE

2. Jurisdiction arises under the FDCPA, 15 U.S.C. §1692 et seq., and pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1337.

3. Venue is proper in this district pursuant to 28 U.S.C. §1391(b).

III. PARTIES

4. RODNEY YOUNG, (hereinafter, "Plaintiff") is an individual who was at all relevant times residing in the City of Fremont, County of Dodge, State of Nebraska.

5. PORTFOLIO RECOVERY ASSOCIATES, INC., (hereinafter, “Defendant”) is a business entity engaged in the collection of debts within the State of Nebraska. Defendant is incorporated in the State of Virginia.

6. In its dealings with Plaintiff, Defendant held itself out as being a company collecting a debt allegedly owed by Plaintiff to Peoples Natural Gas n/k/a Aquila, Inc.

7. At all relevant times, Plaintiff was a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

8. At all relevant times, Defendant acted as a debt collector as that term is defined by 15 U.S.C. §1692a(6).

IV. ALLEGATIONS

9. On or about October 15, 2009, Defendant sent Plaintiff correspondence in an attempt to collect a debt allegedly owed by Plaintiff to Aquila, Inc.

10. The debt allegedly owed by Plaintiff was incurred primarily for personal, family, or household services.

11. The debt allegedly owed by Plaintiff to Aquila, Inc., had been discharged in bankruptcy in April 2008.

12. On or about October 24, 2009, Plaintiff advised Defendant that the debt he allegedly owed had been discharged in a bankruptcy proceeding.

13. Despite being apprised of the fact that the debt allegedly owed by Plaintiff was discharged in a bankruptcy proceeding, Defendant initiated a telephone call to Plaintiff on February 16, 2010 in a further attempt to collect the debt allegedly owed by Plaintiff.

14. During the course of the telephone conversation between Plaintiff and Defendant on the aforesaid date, Defendant stated that it was attempting to collect a debt allegedly owed by Plaintiff to Aquila, Inc.

15. By continuing to attempt to collect the putative debt owed by Plaintiff, Defendant misrepresented to Plaintiff that the debt he allegedly owed to Aquila had not been discharged in bankruptcy and that the debt was still outstanding and owed.

16. In its attempts to collect the debt allegedly owed by Plaintiff to Aquila, Inc., Defendant violated the FDCPA, 15 U.S.C. §1692, in one or more of the following ways:

- a. Used false, deceptive, misleading and unfair or unconscionable means to collect or attempt to collect an alleged debt in violation of 15 U.S.C. §1692e;
- b. Falsely represented the character, amount, or legal status of any debt in violation of 15 U.S.C. §1692e(2)(A);
- c. Used any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning the consumer in violation of 15 U.S.C. §1692e(10); and,
- d. Was otherwise deceptive and failed to comply with the provisions of the FDCPA.

17. As a result of Defendant's violations as aforesaid, Plaintiff has suffered, and continues to suffer, personal humiliation, embarrassment, mental anguish and emotional distress.

V. JURY DEMAND & TRIAL LOCATION

18. Plaintiff hereby demands a trial by jury on all issues so triable.

19. The Plaintiff, RODNEY YOUNG, by and through his attorneys, LARRY P. SMITH & ASSOCIATES, LTD., and pursuant to Nebraska Civil Rule 40.1(b), hereby respectfully requests that the trial of this matter proceed in either Omaha or Lincoln.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, RODNEY YOUNG, by and through his attorneys, respectfully prays for judgment as follows:

- a. All actual compensatory damages suffered;
- b. Statutory damages of \$1,000.00;
- c. Plaintiff's attorneys' fees and costs;
- d. Any other relief deemed appropriate by this Honorable Court.

Respectfully submitted,
RODNEY YOUNG

By: s/ David M. Marco
Attorney for Plaintiff

Dated: April 17, 2010

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